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*Attorneys for plaintiff Alfred H. Siegel, solely
in his capacity as Trustee of the Circuit City
Stores, Inc. Liquidating Trust*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**In re: Cathode Ray Tube (CRT)
ANTITRUST LITIGATION**

Master File No. 3:07-md-05944-SC

MDL No. 1917

This Document Relates To:

Alfred H. Siegel, as Trustee of the Circuit City Stores, Inc. Liquidating Trust v. Hitachi, Ltd., et al., No. 11-cv-05502

**BRANDI FOSE DECLARATION IN
SUPPORT OF DIRECT ACTION
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT BASED UPON
PLAINTIFFS' PURPORTED FAILURE
TO DISTINGUISH BETWEEN
ACTIONABLE AND NON-ACTIONABLE
DAMAGES UNDER THE FTAIA**

Alfred H. Siegel, as Trustee of the Circuit City Stores, Inc. Liquidating Trust v. Technicolor SA, No. 13-cv-05261

Judge: Hon. Samuel P. Conti
Court: Courtroom 1, 17th Floor
Date: February 6, 2015
Time: 10:00 a.m.

I, Brandi Fose, hereby declare as follows:

1. I am currently Accounts Receivable and Information Technologies Manager at

The Circuit City Stores, Inc. Liquidating
[NAME] DECL. IN SUPPORT OF DAPS' OPP. TO DEFS' MSJ BASED UPON PLAINTIFFS' PURPORTED FAILURE TO DISTINGUISH BETWEEN ACTIONABLE AND NON-ACTIONABLE DAMAGES UNDER THE FTAIA

Master File No. 3:07-md-05944-SC

1 knowledge.

2 2. Before the Circuit City bankruptcy in January 2009, I served in several roles at
3 the company starting in 1997, including inventory accounting manager, the fixed assets and
4 project accounting manager, expense payables supervisor, inventory accounting supervisor, and
5 internal audit supervisor.

6 3. During the Relevant Period, Circuit City Stores, Inc. ("Circuit City") purchased
7 CRT Products from its offices in Richmond, Virginia, as reflected in the corporate
8 representative testimony of Steve Deason at pages 25 to 26 of his deposition, a true and correct
9 copy of which is attached as Ex. 1.

10 4. During the Relevant Period, Circuit City purchased CRT Products directly from
11 Defendants, co-conspirators, and their affiliates, all of which were located in the United States,
12 as reflected in the purchase data Circuit City produced in this litigation.

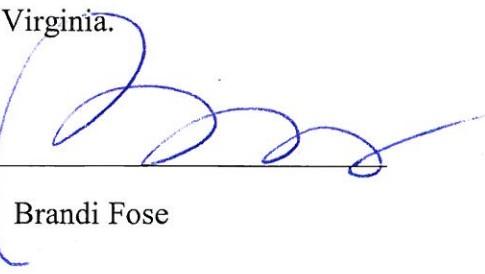
13 5. This data was discussed at pages 36-40 of my corporate representative
14 deposition, a true and correct copy of which is attached as Ex. 2. Documents evidencing these
15 purchases were stored in Circuit City's Onbase system and produced in this case at bates
16 numbers 1000001 to 10052456, as discussed in my deposition testimony at pages 79 to 80, a
17 true and correct copy of which is attached as Ex. 3.

18 6. Defendants, co-conspirators, and their affiliates shipped these CRT Products to
19 Circuit City primarily at its distribution centers in the United States as discussed in my
20 deposition at pages 44-45, a true and correct copy of which is attached as Ex. 4.

22 I declare under penalty of perjury that the foregoing is true and correct.

23 Executed this 17th day of December at Richmond, Virginia.

25 By:

26 
Brandi Fose

28 3466420v1/012325

[NAME] DECL. IN SUPPORT OF DAPS' OPP. TO DEF'S'
MSJ BASED UPON PLAINTIFFS' PURPORTED FAILURE
TO DISTINGUISH BETWEEN ACTIONABLE AND NON-
ACTIONABLE DAMAGES UNDER THE FTAIA

Exhibit 1

1

1 IN THE UNITED STATES DISTRICT COURT
2
3 NORTHERN DISTRICT OF CALIFORNIA
4
5 SAN FRANCISCO DIVISION

Case Number 07-5944 (SC)

MDL No. 1917

In Re: CATHODE RAY TUBE (CRT)

ANTITRUST LITIGATION

This Document Relates to

ALL ACTIONS

VIDEO DEPOSITION OF STEVEN DEASON

Richmond, Virginia

Wednesday, April 23, 2014

SSS 10:58 a.m.

* * * *

25

1 Q Do you know which of those two groups 11:19:33
 2 you were just talking about would have 11:19:36
 3 responsibility related to CRT finished products 11:19:38
 4 that were monitors? 11:19:40

5 A I am sorry. I left that group out. 11:19:42
 6 That would have been a separate group that we 11:19:45
 7 called the SOHO group and that group was all small 11:19:47
 8 office home office would include everything that 11:19:53
 9 had to do with computers and usually some other 11:19:57
 10 category, but predominantly computers. 11:20:02

11 Q Was that SOHO group located in one 11:20:05
 12 location? 11:20:09

13 A Yes. 11:20:09

14 Q Where was that location? 11:20:10

15 A Richmond. 11:20:12

16 Q Is that true throughout the relevant 11:20:13
 17 period? 11:20:15

18 A Yes. 11:20:15

19 Q For the display group that had 11:20:16
 20 responsibilities related to CRT finished products 11:20:20
 21 other than monitors, was that group concentrated 11:20:23
 22 in one location? 11:20:27

23 A Yes. 11:20:28

24 Q Where was that location? 11:20:29

25 A Richmond. 11:20:30

1	Q Was that true throughout the relevant	11:20:31
2	period?	11:20:33
3	A Yes.	11:20:33
4	Q Was there a position at Circuit City	11:20:34
5	that had responsibility related to the deciding of	11:20:43
6	which brands of CRT finished products to purchase?	11:20:46
7	A The buyer chooses which products to buy.	11:20:50
8	Q Were Circuit City's buyers concentrated	11:20:57
9	in any one location?	11:21:00
10	A They were all in the headquarters in	11:21:01
11	Richmond.	11:21:04
12	Q Were there any buyers throughout the	11:21:07
13	relevant period located at another location other	11:21:09
14	than Richmond?	11:21:12
15	A No.	11:21:13
16	Q Was there a position at Circuit City	11:21:16
17	that had the ultimate authority to approve a	11:21:24
18	buyer's decision of which vendors to purchase CRT	11:21:26
19	products from?	11:21:30
20	A I'm not sure I understand the question.	11:21:31
21	Q Was there anyone supervising the buyers'	11:21:33
22	decisions of which vendors to purchase CRT	11:21:36
23	finished products from?	11:21:38
24	A The buyers had supervisors, but it was	11:21:40
25	not common practice for the supervisors to direct	11:21:43

Exhibit 2

1

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

Case Number 07-5944 (SC)

MDL No. 1917

In Re: CATHODE RAY TUBE (CRT)

ANTITRUST LITIGATION

This Document Relates to

ALL ACTIONS

VIDEO DEPOSITION OF BRANDY FOSE

Richmond, Virginia

Wednesday, April 23, 2014

9:00 a.m.

* * * *

212-267-6868

VERITEXT REPORTING COMPANY
www.veritext.com

516-608-2400

1 report basically is created within the AS 400. 09:29:34

2 Q So were the periods monthly? 09:29:39

3 A Yes. 09:29:40

4 Q Are the transactions reflected in your 09:29:47
sales data then based on a monthly basis? 09:29:50

5 A Yes. 09:29:53

6 Q Is daily transactional data available? 09:29:54

7 A No. 09:29:56

8 (Whereupon, Deposition Exhibit 2833 is marked for 09:30:00
9 Identification.) 09:30:00

10 MS. LIN: You can put that exhibit 09:30:00
11 aside. I will hand you a document that I am 09:30:02
12 marking as Exhibit 2833 and I will represent 09:30:26
13 to everybody to ignore the headers and 09:30:30
14 footers on this document. 09:30:35

15 I represent to you that this is an 09:30:36
16 abbreviated version of the purchasing data 09:30:45
17 for Circuit City in this case. 09:30:47

18 BY MS. LIN: 09:30:51

19 Q Does this print out in a different form 09:30:51
20 look familiar to you? 09:30:53

21 A Yes. 09:30:54

22 Q The products contained in the purchasing 09:30:56
23 data produced by Circuit City in this case, is 09:30:59
24 that limited to CRT finished products? 09:31:01

1	A Yes.	09:31:04
2	Q Does the data include any procurement	09:31:05
3	transactions received outside of the United	09:31:08
4	States?	09:31:10
5	A No.	09:31:10
6	Q I am looking at the date processed	09:31:15
7	column, so maybe three quarters of the way through	09:31:21
8	the page?	09:31:24
9	A Yes.	09:31:24
10	Q Can you tell me what information that	09:31:25
11	column contains?	09:31:28
12	A Theoretically, it should be the same as	09:31:30
13	the date received unless there was some type of	09:31:32
14	system issue or some reason the distribution	09:31:34
15	center data did not interface, it could be a day	09:31:38
16	later, but for the most part from what I have seen	09:31:41
17	it is the same day as date received.	09:31:43
18	Q What does the date received information	09:31:45
19	reflect?	09:31:50
20	A The date that the product was received	09:31:50
21	at the distribution center.	09:31:53
22	Q Where was the distribution center	09:31:58
23	located?	09:32:01
24	A It depends on what it says over here	09:32:01
25	under "store name."	09:32:04

38

1 Q The "tran type" column, so the next 09:32:17
 2 column over from date processed, can you talk me 09:32:20
 3 through what type of information is contained in 09:32:22
 4 that column? 09:32:25

5 A Sure, "tran type" stands for transaction 09:32:26
 6 type and there were numerical codes in there. 09:32:29
 7 There were three of them, 6840, 6841, and 6842, 09:32:33
 8 and 6840 was the transaction of the receipt. 09:32:36

9 6841 and 6842 represented costs or price 09:32:40
 10 or quantity adjustments, so if for some reason the 09:32:45
 11 distribution center scanned a box of an item in as 09:32:50
 12 one, and there were ten in the box, we may have to 09:32:53
 13 do an adjustment to adjust the quantity for ten. 09:32:55

14 Q If you adjusted the quantity for ten, to 09:32:58
 15 make sure I am understanding right, you would 09:33:01
 16 modify both the transaction type and then the 09:33:02
 17 quantity? 09:33:06

18 A Well, the transaction type based on the 09:33:06
 19 adjustment would not be a 6840. It would be a 41 09:33:09
 20 or a 42, and I forget which one is quantity 09:33:15
 21 adjustment because the 6840 is systematic based on 09:33:17
 22 receipt. 09:33:20

23 Q What does the "store cost" field 09:33:25
 24 reflect? 09:33:28

25 A That is the same as the store cost in 09:33:28

1 the sales data. 09:33:31

2 Q Is there a distinction between the store 09:33:33

3 cost column and then two over the total store 09:33:35

4 cost? 09:33:38

5 A Yes, store cost is the unit store cost 09:33:38

6 and total store cost is the quantity received 09:33:40

7 times store cost. 09:33:44

8 Q And the second to last column which is 09:33:47

9 labeled "RTVIND," what does that mean? 09:33:49

10 A That stands for RTV indicator and if 09:33:52

11 there is an R present, I believe that is an R, it 09:33:57

12 means that there is an attempt to return the 09:34:00

13 product to the vendor, but it was rejected, so we 09:34:03

14 had to bring the product back into inventory. 09:34:06

15 Q If the product was successfully 09:34:09

16 returned, would that be reflected anywhere on this 09:34:12

17 database? 09:34:15

18 A No, because these are just purchases. 09:34:17

19 Q If a product was successfully returned, 09:34:20

20 it would not appear in your purchasing data at 09:34:23

21 all? 09:34:26

22 A Correct. 09:34:26

23 Q If information on this sheet in the 09:34:32

24 total store cost column is in parentheses, do you 09:34:34

25 know what that means? I don't think there are any 09:34:38

40

1	examples on this sheet.	09:34:43
2	A I prefer to see an example to answer	09:34:46
3	that to be honest.	09:34:48
4	Q Do you know if the data includes	09:34:58
5	procurement transactions from vendors located	09:35:00
6	exclusively within the United States?	09:35:03
7	A Vendors?	09:35:05
8	MR. ROSS: Objection to form.	09:35:06
9	BY MS. LIN:	09:35:06
10	Q Is there a means within the data set to	09:35:09
11	determine the location of the vendor from which	09:35:16
12	Circuit City is purchasing the data reflected in	09:35:19
13	this exhibit?	09:35:22
14	A No.	09:35:22
15	Q Is there another way that you would be	09:35:23
16	able to determine that information?	09:35:25
17	A Are you asking me where like we sent	09:35:28
18	payment to the vendor? Where the vendor corporate	09:35:32
19	headquarters are? I'm not sure I know what you	09:35:36
20	are asking.	09:35:37
21	Q That's okay. If you saw a particular	09:35:38
22	line in this database and wanted to understand	09:35:40
23	where the vendor of that particular order was	09:35:42
24	located, would there be a way for you find that	09:35:45
25	information?	09:35:47

Exhibit 3

1

1 IN THE UNITED STATES DISTRICT COURT
2
3 NORTHERN DISTRICT OF CALIFORNIA
4
5 SAN FRANCISCO DIVISION

Case Number 07-5944 (SC)

5 | MDL No. 1917

7 In Re: CATHODE RAY TUBE (CRT)

8 ANTITRUST LITIGATION

9 This Document Relates to

10 ALL ACTIONS

13 | VIDEO DEPOSITION OF BRANDY FOSE

14 Richmond, Virginia

15 Wednesday, April 23, 2014

16 9:00 a.m.

18 * * * *

1 or something like that might be in a promotion for 10:30:58
 2 the first week it came out. 10:31:00

3 I have seen other short promotions 10:31:04
 4 within the chargeback data which I believe you 10:31:07
 5 guys have the chargebacks from the "on base," but 10:31:11
 6 I can't think of any specific. 10:31:14

7 Q Did Circuit City run short period 10:31:18
 8 Christmas related sales? 10:31:21

9 A Probably. 10:31:24

10 MR. ROSS: To the extent that you want 10:31:26
 11 to get into this subject, and specifically 10:31:28
 12 CRT finished products, to the extent that we 10:31:30
 13 can provide answers, that is probably more 10:31:32
 14 for Mr. Deason. 10:31:34

15 BY MS. LIN: 10:31:36

16 Q You mentioned Circuit City's "on base 10:31:36
 17 system," what is that? 10:31:38

18 A That is just a document retention 10:31:39
 19 database which we still have in place today. 10:31:42

20 Q What type of documents would be stored 10:31:47
 21 in the on base system? 10:31:49

22 A It would have all chargebacks. So like 10:31:50
 23 vendor funding documents, where we billed the 10:31:54
 24 vendor for funding that was negotiated that has 10:31:59
 25 the legal like agreements, master agreement, 10:32:04

80

1 product exhibits, product addenda, deal 10:32:07
 2 information, if we had hard copy invoices, but for 10:32:11
 3 the most part we don't, they would be scanned and 10:32:15
 4 then in that same system. 10:32:18

5 That's all that I am familiar with and 10:32:21
 6 have access to, but I know that folks that were in 10:32:24
 7 HR there would be personnel records in there as 10:32:25
 8 well. 10:32:31

9 Q Do you recall whether Circuit City ever 10:32:31
 10 had programs where customers would receive a 10:32:33
 11 rebate after purchasing a CRT finished product? 10:32:36

12 A Yes. 10:32:39

13 Q How did those rebate programs work? 10:32:40

14 A I'm not familiar with the details of the 10:32:43
 15 programs, they were for the most part closed out 10:32:46
 16 before I really got involved in the receivable 10:32:49
 17 standpoint for vendor funding and I believe we 10:32:53
 18 even had a third party that assisted with the 10:32:57
 19 rebates. 10:33:00

20 Q Do you know who the third-party 10:33:03
 21 assistant was? 10:33:05

22 A I believe it was Perigo, so a 10:33:06
 23 third-party company. I don't remember how to 10:33:08
 24 spell it. 10:33:16

25 Q Do you know if rebate amounts are 10:33:17

Exhibit 4

1

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 Case Number 07-5944 (SC)
6 MDL No. 1917
7

8 ----- x
9 In Re: CATHODE RAY TUBE (CRT)
10 ANTITRUST LITIGATION
11 This Document Relates to
12 ALL ACTIONS
13

14 ----- x
15 VIDEO DEPOSITION OF BRANDY FOSE
16 Richmond, Virginia
17 Wednesday, April 23, 2014
18 9:00 a.m.
19
20
21
22
23
24
25

1	maintained anywhere.	09:40:09
2	Q Do you know when that system was	09:40:12
3	decommissioned?	09:40:14
4	A The purchase order information was	09:40:15
5	decommissioned after liquidation so after January	09:40:19
6	2009 and prior to April 2009.	09:40:24
7	MR. ROSS: For the record, there are	09:40:30
8	some hard copy purchase orders and we	09:40:32
9	produced those.	09:40:34
10	BY MS. LIN:	09:40:45
11	Q Where were the CRT finished products	09:40:45
12	Circuit City purchased shipped to?	09:40:49
13	A From the vendor?	09:40:51
14	MR. GRALEWSKI: Objection, form.	09:40:52
15	THE WITNESS: The product would have	09:40:54
16	been shipped to whichever location is listed	09:40:56
17	in the purchase data and for the most part it	09:40:58
18	would have been distribution centers, Circuit	09:41:01
19	City Distribution Centers.	09:41:03
20	BY MS. LIN:	09:41:04
21	Q When you are referencing the purchasing	09:41:04
22	data you are referencing the third column that	09:41:07
23	says "store name"?	09:41:09
24	A Yes, or the second column that says	09:41:11
25	location, that is the number, and the fourth	09:41:12

45

1	column is the state.	09:41:15
2	Q Was there any point in time when Circuit	09:41:18
3	City's CRT finished product purchases were shipped	09:41:25
4	to one central location?	09:41:28
5	A Not that I am aware of.	09:41:30
6	Q Do you know where Circuit City's CRT	09:41:33
7	finished product purchases were shipped when	09:41:36
8	Circuit City intended to sell those products	09:41:39
9	through the Internet?	09:41:42
10	A Where they were received by Circuit	09:41:42
11	City? I believe they were still received at a	09:41:46
12	distribution center. It may have been a different	09:41:50
13	one because we did have some specific web, and I	09:41:52
14	don't remember if they were called "crossed	09:41:56
15	stocks" or something like that, but they were	09:41:58
16	segments within distribution centers that	09:42:01
17	sometimes were, I guess, segmented specifically	09:42:04
18	for the web.	09:42:08
19	Q To your knowledge, were CRT finished	09:42:13
20	products purchased by consumers through Circuit	09:42:16
21	City's website ever shipped directly from the	09:42:19
22	vendor to the customer?	09:42:23
23	A It's possible, but I am not sure.	09:42:26
24	Q Is there a way to determine from Circuit	09:42:33
25	City's purchasing data the location from which the	09:42:52